

STATE BAR COURT OF CALIFORNIA  
HEARING DEPARTMENT – SAN FRANCISCO

In the Matter of	)	Case Nos.: <b>05-O-02912-PEM</b>
	)	(05-O-03455); 06-O-11058;
<b>LAURA ANN RAYCRAFT,</b>	)	06-O-14758 (06-O-14929;
	)	07-O-10057; 07-O-12486)
<b>Member No. 158360,</b>	)	(Cons.)
	)	
A Member of the State Bar.	)	<b>DECISION AND ORDER SEALING</b>
	)	<b>CERTAIN DOCUMENTS</b>
_____	)	

I. INTRODUCTION

In this consolidated disciplinary proceeding, respondent Laura Ann Raycraft (“respondent”) was accepted for participation in the State Bar Court’s Alternative Discipline Program (“ADP”).<sup>1</sup> As the court has now found that respondent has successfully completed the ADP, the court will recommend to the Supreme Court that respondent be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that she be placed on probation for three years subject to certain conditions, including a one-year period of suspension.

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<sup>1</sup> The ADP was formerly known as the (Pilot) Program for Respondents with Substance Abuse or Mental Health Issues.

## **II. PERTINENT PROCEDURAL HISTORY**

On May 30, 2006, the State Bar of California's Office of the Chief Trial Counsel ("State Bar") filed a Notice of Disciplinary Charges ("NDC") against respondent in Case Nos. 05-O-02912 (05-O-03455). Respondent sought to participate in the State Bar Court's ADP.

On November 13, 2006, this matter was referred to the ADP. On December 22, 2006, respondent contacted the State Bar's Lawyer Assistance Program ("LAP") to assist her with her mental health issue. On April 19, 2007, respondent signed a LAP Participation Plan.

On May 22, 2007, the State Bar filed a second NDC against respondent, in Case No. 06-O-11058. The court subsequently issued an order consolidating this matter with Case Nos. 05-O-02912 (05-O-03455).

On August 24, 2007, respondent submitted a declaration to the court, which established a nexus between respondent's mental health issue and the charges in this matter.

On October 11, 2007, the court issued an order enrolling respondent as an inactive member of the State Bar pursuant to Business and Professions Code section 6233.<sup>2</sup> This order was effective that same day.

On December 20, 2007, the State Bar filed a third NDC against respondent, in Case Nos. 06-O-14758 (06-O-14929; 07-O-10057; 07-O-12486). The court issued an order consolidating this matter with respondent's aforementioned matters.

The parties entered into a Stipulation Re Facts and Conclusions of Law ("Stipulation") in December 2007. The Stipulation set forth the factual findings, legal conclusions and mitigating and aggravating circumstances involved in Case Nos. 05-O-02912 (05-O-03455); 06-O-11058; 06-O-14758 (06-O-14929; 07-O-10057; 07-O-12486).

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<sup>2</sup> All further references to section(s) are to the Business and Professions Code, unless otherwise stated.

Following briefing by the parties, the court issued a Confidential Statement of Alternative Dispositions and Orders dated March 18, 2008, formally advising the parties of: (1) the discipline which would be recommended to the Supreme Court if respondent successfully completed the ADP; and (2) the discipline which would be recommended if respondent failed to successfully complete, or was terminated from, the ADP. After agreeing to those alternative dispositions, respondent and her counsel executed the Contract and Waiver for Participation in the State Bar Court's ADP; the court accepted respondent for participation in the ADP; and respondent's period of participation in the ADP began on April 14, 2008.

On October 22, 2008, the court issued an order granting respondent's request to terminate her involuntary inactive enrollment pursuant to section 6233 and return to active status. Respondent was entitled to resume the practice of law in this state on October 24, 2008.

Respondent participated successfully in both the LAP and the State Bar Court's ADP. On May 12, 2010, after receiving a Certificate of One Year of Participation in the LAP and a certificate of successful completion from the LAP, the court filed an order finding that respondent has successfully completed the ADP.

### **III. FINDINGS OF FACT AND CONCLUSIONS OF LAW**

The parties' Stipulation, including the court's order approving the Stipulation, is attached hereto and hereby incorporated by reference, as if fully set forth herein. Respondent stipulated in these seven disciplinary matters to the following violations:

Rule 3-700(D)(2) of the Rules of Professional Conduct of the State Bar of California<sup>3</sup> in one matter [failing to promptly refund unearned fees];

Rule 4-100(B)(4) in one matter [failing to promptly pay out client funds];

Section 6068, subdivision (m), in two matters [failing to respond to client inquiries];

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<sup>3</sup> Unless otherwise indicated, all further references to rule(s) refer to the Rules of Professional Conduct of the State Bar of California.

Section 6068, subdivision (m), in two matters [failing to inform the client of significant developments];

Rule 3-110(A) in two matters [failing to perform with competence];

Rule 4-100(A) in two matters [commingling and/or failing to deposit client funds in a trust account];

Section 6106 in three matters [moral turpitude]; and

Rule 4-100(B)(3) in four matters [failure to render accounting].

In aggravation, respondent's misconduct evidences multiple acts of wrongdoing to multiple clients. (Rules Proc. of State Bar, tit. IV, Stds. for Atty. Sanctions for Prof. Misconduct, std. 1.2(b)(ii).)<sup>4</sup> Respondent also committed additional uncharged misconduct in 1999, when she—in her capacity as a district attorney—made substantive changes to a court order and attempted to file it in another jurisdiction.

In mitigation, respondent demonstrated remorse (Std. 1.2(e)(vii)), was candid and cooperative with the State Bar (Std. 1.2(e)(v)), and had no prior record of discipline (Std. 1.2(e)(i)). The court also considers the extreme emotional difficulties respondent was suffering from at the time of the misconduct, and her successful completion of the ADP. (Std. 1.2(e)(iv).)

#### **IV. DISCUSSION**

The purpose of State Bar disciplinary proceedings is not to punish the attorney but, rather, to protect the public, preserve public confidence in the legal profession, and maintain the highest possible professional standards for attorneys. (*Chadwick v. State Bar* (1989) 49 Cal.3d 103, 111.)

In determining the appropriate alternative discipline recommendations if respondent successfully completed the ADP or was terminated from, or failed to successfully complete, the

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<sup>4</sup> All further references to standard(s) or std. are to this source.

ADP, the court considered the discipline recommended by the parties, as well as certain standards and case law. In particular, the court considered standards 1.3, 1.4, 1.5, 1.6, 2.2(b), 2.3, 2.4(b), 2.6, and 2.10, and *Hawes v. State Bar* (1990) 51 Cal.3d 587; *Young v. State Bar* (1990) 50 Cal.3d 1204; *Pineda v. State Bar* (1989) 49 Cal.3d 753; *In the Matter of Frazier* (Review Dept. 1991) 1 Cal State Bar Ct. Rptr. 676; *Crane v. State Bar* (1981) 30 Cal.3d 117; *Inniss v. State Bar* (1978) 20 Cal.3d 552; *Conroy v. State Bar* (1990) 51 Cal.3d 799; and *Drociak v. State Bar* (1991) 52 Cal.3d 1085.

Because respondent has now successfully completed the ADP, this court, in turn, now recommends to the Supreme Court the imposition of the lower level of discipline, set forth more fully below, contained in the Confidential Statement of Alternative Dispositions and Orders.

## **V. DISCIPLINE**

It is hereby recommended that respondent **Laura Ann Raycraft**, State Bar Number 158360, be suspended from the practice of law in California for two years, that execution of that period of suspension be stayed, and that she be placed on probation<sup>5</sup> for a period of three years subject to the following conditions:

1. Respondent Laura Ann Raycraft is suspended from the practice of law for the first year of probation (with credit given for inactive enrollment, which was effective October 11, 2007 through October 24, 2008 (Bus. & Prof. Code § 6233.)).
2. Respondent Laura Ann Raycraft must also comply with the following additional conditions of probation:
  - a. During the probation period, respondent must comply with the provisions of the State Bar Act and the Rules of Professional Conduct of the State Bar of California;
  - b. Within ten (10) days of any change, respondent must report to the Membership Records Office of the State Bar and to the Office of Probation of the State Bar of California (“Office of Probation”), all changes of information, including current office address and telephone

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<sup>5</sup> The probation period will commence on the effective date of the Supreme Court order imposing discipline in this matter. (See Cal. Rules of Court, rule 9.18.)

number, or other address for State Bar purposes, as prescribed by section 6002.1 of the Business and Professions Code;

- c. Within thirty (30) days after the effective date of discipline, respondent must contact the Office of Probation and schedule a meeting with respondent's assigned probation deputy to discuss these terms and conditions of probation. Upon the direction of the Office of Probation, respondent must meet with the probation deputy either in person or by telephone. During the period of probation, respondent must promptly meet with the probation deputy as directed and upon request;
- d. Respondent must submit written quarterly reports to the Office of Probation on each January 10, April 10, July 10 and October 10 of the period of probation. Under penalty of perjury, respondent must state whether respondent has complied with the State Bar Act, the Rules of Professional Conduct, and all conditions of probation during the preceding calendar quarter. Respondent must also state whether there are any proceedings pending against her in the State Bar Court and if so, the case number and current status of that proceeding. If the first report would cover less than thirty (30) days, that report must be submitted on the next quarter date, and cover the extended period.

In addition to all quarterly reports, a final report, containing the same information, is due no earlier than twenty (20) days before the last day of the period of probation and no later than the last day of the probation period;

- e. Subject to the assertion of applicable privileges, respondent must answer fully, promptly and truthfully any inquiries of the Office of Probation which are directed to respondent personally or in writing relating to whether respondent is complying or has complied with the probation conditions;
- f. If respondent has not previously done so, within thirty (30) days after the effective date of the Supreme Court's final disciplinary order in this matter, respondent must send a letter by certified mail, return receipt requested, to the following individual(s) and must therein offer to initiate and participate in binding fee arbitration with said individual(s) upon the request of said individual(s): **Coral Spaulding**.

Unless respondent has previously done so, within sixty (60) days after the effective date of the Supreme Court's final disciplinary order in this matter, respondent must provide the Office of Probation with a copy of the letter offering to initiate and participate in binding fee arbitration for each individual set forth in the previous paragraph, along with a copy of the return receipt from the U.S. Postal Service.

Respondent must advise the Office of Probation, in writing, of any request to participate in fee arbitration made by any individual within 15 days after any such request or within 30 days after the effective date of the Supreme Court's final disciplinary order in this matter, whichever is later.

Respondent must initiate and participate in binding fee arbitration upon the request of any individual set forth above within three (3) months of any such request or as directed by the organization conducting the fee arbitration. Respondent will not be permitted to raise the statute of limitations as a defense to the fee arbitration with respect to any individual set forth above.

Within 30 days after issuance of an award, decision, or final determination by any fee arbitrator pursuant to any such fee arbitration, or within 30 days after the effective date of the Supreme Court's final disciplinary order in this matter, whichever is later, respondent must provide a copy of said award, decision, or final determination to the Office of Probation, unless respondent has previously done so.

Respondent must abide by any award, decision, or final determination of any such fee arbitrator. Unless respondent has previously provided to the Office of Probation satisfactory proof of compliance with any award, decision, or final determination of any such fee arbitrator, respondent must provide, with each quarterly report required herein, satisfactory proof of compliance with any award, decision, or final determination of any such fee arbitrator performed by respondent during said quarter.

If the State Bar Client Security Fund has reimbursed any individual set forth above for all or any portion of any award pursuant to fee arbitration, respondent must pay restitution to the Client Security Fund of the amount paid, plus applicable interest and costs.

To the extent that respondent has paid any fee arbitration award prior to the effective date of the Supreme Court's final disciplinary order in this proceeding, respondent will be given credit for such payments provided satisfactory proof is shown to the Office of Probation.

At the expiration of the period of probation, if Laura Ann Raycraft has complied with all conditions of probation, the two-year period of stayed suspension will be satisfied and that suspension will be terminated.<sup>6</sup>

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<sup>6</sup> It is recommended that respondent receive credit for the period of her inactive enrollment under section 6233 toward her period of suspension imposed in this matter. If such recommendation is adopted by the Supreme Court, respondent will not serve any period of suspension after the effective date of the Supreme Court's order imposing discipline in this

It is not recommended that respondent be ordered to attend either the State Bar's Ethics or Client Trust Accounting Schools as she provided to the court proof of passage of these schools from 2007 and 2009, respectively.

It is also not recommended that respondent be ordered to take and pass the Multistate Professional Responsibility Examination ("MPRE") as she provided to the court proof of passage of the MPRE given in 2008.

It is further not recommended that respondent be ordered to comply with the Medical Conditions reflected on page six of the Stipulation as she provided to the court proof of successful completion of the Lawyer Assistance Program.

## **VI. COSTS**

It is recommended that costs be awarded to the State Bar in accordance with Business and Professions Code section 6086.10, and are enforceable both as provided in Business and Professions Code section 6140.7 and as a money judgment.

## **VII. DIRECTION RE DECISION AND ORDER SEALING CERTAIN DOCUMENTS**

The court directs a court case administrator to file this Decision and Order Sealing Certain Documents. Thereafter, pursuant to rule 806(c) of the Rules of Procedure of the State Bar of California ("Rules of Procedure"), all other documents not previously filed in this matter are ordered sealed pursuant to rule 23 of the Rules of Procedure.

It is further ordered that protected and sealed material will only be disclosed to: (1) parties to the proceeding and counsel; (2) personnel of the Supreme Court, the State Bar Court and independent audiotape transcribers; and (3) personnel of the Office of Probation when necessary for their duties. Protected material will be marked and maintained by all authorized individuals in a manner calculated to prevent improper disclosures. All persons to whom

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matter. It is therefore not recommended that respondent be ordered to comply with rule 9.20 of the California Rules of Court.

protected material is disclosed will be given a copy of this order sealing the documents by the person making the disclosure.

**IT IS SO ORDERED.**

Dated: August \_\_\_\_\_, 2010

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PAT McELROY  
Judge of the State Bar Court